IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr. A. No.747/2000

Reserved on.28.11.2007

Decided on.7.12.2007

State of H.P. **…Appellant.**

Versus

Bitto Ram and others. **…Respondents**

Coram

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting ?[1]*. No.*

For the appellant	**:**	**Mr. M.A. Khan and Ms. Meenakashi Sharma, Deputy Advocate Generals.**
For the respondents-accused	**:**	**Mr. Virender Rathore, Advocate.**

Rajiv Sharma, J.

The respondents were accused in criminal case No. No. RBT 17-II/2000 and were prosecuted for offences punishable under sections 325, 498-A and 34 of the Indian Penal Code and in the Court of Judicial Magistrate 1st Class, Court No.II, Dharamshala and were acquitted on 11.8.2000. The State has filed the present appeal against the acquittal of the respondents.

Briefly stated the case of the prosecution is that Smt. Babli daughter of the complainant Sadhu Ram was married with accused Roshan Lal about four years back, but Smt. Babli was mal-treated and on the noon of 20th November, 1999 at about 12.00-1.00 P.M. all the accused persons in furtherance of their common intention by giving beating to complainant threw her from height due to which she fell unconscious and was brought to Zonal Hospital, Dharamshala. The matter was reported to

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment***? No.

the police on 28th November, 1999 which led to the registration of FIR Ex.PW-1/A. The matter was investigated and thereafter the challan was put up in the Court and the accused persons were chargesheeted. The prosecution had produced as many as 11 witnesses to prove the charge against the accused persons. On the basis of the prosecution evidence, accused persons were examined under section 313 of the Code of Criminal Procedure. They pleaded not guilty. The trial court on the basis of the evidence led by the prosecution acquitted the accused on 11.8.2000. Hence, the present appeal against the acquittal of the accused persons by the State.

The learned Deputy Advocate General had strenuously argued that the prosecution has proved the charges against the accused. He also contended that the trial court has failed to appreciate the evidence led by the prosecution during the trial.

Mr. Virender Rathore, Advocate appearing on behalf of the respondents had supported the judgment dated 11.8.2000.

I have heard the learned counsel for the parties and perused the record meticulously.

The incident is dated 20th November, 1999. According to Sh. Sadhu Ram, father of Smt. Babli, after one year of the marriage of his daughter, the accused persons started maltreating her. He had admitted that his daughter did not disclose about the beating part in the hospital. PW-10 Smt. Babli had also testified on oath the manner in which she was maltreated by the accused persons, however, in cross-examination she has admitted that at the time of occurrence her father-in-law was working on machine. She also admitted that she did not disclose to her father in the hospital that she was beaten by the accused persons. She has gone even to the extent by admitting in her cross-examination that the accused

persons were not present in the house at the time of occurrence. PW-6 Harnam Singh has testified that accused Roshan Lal was getting Babli treated in the hospital. In the statements of PW-3, PW-4 and P-5, i.e. Kamal Kishore, Jagdish Chand and Chandu Ram it has come that Babli fell down from the height and received injuries on her own. According to PW-8 Dr. Rampal Sharma though injury No.2 was grievous but Smt. Babli had told him that she slipped which resulted in the injuries. The statement of doctor PW-8 is supported by PW-11 Sub Inspector Birbal, who has also admitted in his cross-examination that it has come in his cross-examination that complainant fell down of her own. The prosecution has failed to prove the charges against the accused. There is neither any misreading nor mis-appreciation of the prosecution evidence by the trial court.

The result of the above discussion is that the appeal fails and the same is dismissed. The bail bonds furnished by the respondents-accused are discharged.

(Rajiv Sharma), Judge

December 7, 2007
Awasthi